

EMPLOYMENT APPEAL BOARD[486]

Adopted and Filed

Pursuant to the authority of Iowa Code section 10A.601(6), the Employment Appeal Board hereby amends Chapter 6, “Peace Officer and Capitol Security Appeals,” Iowa Administrative Code.

These amendments update two subrules regarding the types of notices sent to the Board by the Iowa Department of Public Safety. Subrule 6.1(1) currently refers only to the notice of intent to dismiss, but Iowa Code section 10A.601 refers to notices dealing with suspension, disciplinary demotions, or other disciplinary action resulting in the loss of pay. The amendment in Item 1 brings the rule into compliance with the statutory language.

The amendment in Item 2 establishes a deadline on appealing the proposed decision of an administrative law judge to the Board. Deadlines have been established for Occupational Safety and Health Administration (OSHA), Iowa Public Employees’ Retirement System (IPERS), and Department of Administrative Services (DAS) cases. Adding the language in Item 2 will provide consistency in decisions.

The Board approved these amendments at its meeting on May 12, 2016.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 8, 2016, as **ARC 2578C**. The Board received no comments during the public comment period. These amendments are identical to those published under Notice of Intended Action.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 10A.601 and 17A.4.

These amendments will become effective September 7, 2016.

The following amendments are adopted.

ITEM 1. Amend subrule 6.1(1) as follows:

6.1(1) *Form and time of appeal.* The department of public safety shall file with the employment appeal board notice of intent to dismiss or of intent to take other action, under the purview of Iowa Code section 80.15, regarding a member of the department, including capitol security officers covered under Iowa Code section 80.15. The notice of intent to ~~dismiss~~ shall become final unless within 30 days a request (hereafter called an appeal) to appear and defend the charges is filed by the person named. No notice of intent to take action need be filed for action not under the purview of Iowa Code section 80.15. Such personnel actions are effective without following the process of Iowa Code section 80.15.

ITEM 2. Amend subrule 6.1(6) as follows:

6.1(6) *Decisions.* If the hearing is conducted by the employment appeal board, the decision of the board shall be the final decision. If the hearing is conducted by an administrative law judge, the decision shall be a proposed decision, which shall become the final decision 30 days after the issue date of that decision, unless a further appeal is taken to the employment appeal board. The employment appeal board on further review may reverse, modify, or remand the proposed decision. The decision of the employment appeal board shall be by majority vote. The decision of the employment appeal board shall be a final agency decision ~~unless~~ subject to review through a petition for judicial review is filed within 30 days of the date of the employment appeal board decision in the appropriate district court.

[Filed 7/13/16, effective 9/7/16]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/3/16.